

Testimony Regarding Explosive Rules and Regulations
Before the Joint Committee on Administrative Rules and Regulations
Doug Jorgensen, State Fire Marshal
July 22, 2013

I want to thank the Committee for the opportunity to appear here today and present testimony regarding these proposed explosives regulations.

The primary regulation, K.A.R. 22-4-5, adopts the 2013 edition of the National Fire Protection Association's "Explosive Materials Code," also known as NFPA 495. NFPA 495 provides a set of nationally-recognized standards governing the safe manufacture, sale, use, and storage of explosive materials. Our authority to adopt this regulation comes from K.S.A. 31-133(a), which states that the State Fire Marshal shall adopt reasonable rules and regulations . . . for the safeguarding of life and property from fire, explosion, and hazardous materials." Specifically, the statute provides that these regulations shall address the "keeping, storage, use, sale, handling, transportation or other disposition of . . . explosives."

I believe that this regulation is necessary to comply with the above statute and is needed to correct an oversight that occurred during a prior revision of our regulations. NFPA 495 had been adopted in K.A.R. 22-1-3, but a previous Assistant Attorney General assigned to our office, while preparing an update and changes to our rules and regulations, unintentionally removed it from that regulation.

NFPA 495 was reinstated in our regulations on June 28 of this year, when the State Rules and Regulations Board approved a temporary version of K.A.R. 22-4-5, which is substantially the same as this proposed permanent version. However, because that temporary regulation is only valid for 120 days, this permanent regulation is needed to allow us to continue our explosive regulatory functions, thereby ensuring the safe manufacture, sale, use, and storage of explosive materials in the state.

There has been good cooperation between our office and the explosive industry in the state in preparing this new regulation, and we look forward to continuing that work through the public hearing process.

In addition to K.A.R. 22-4-5, we are also proposing the revocation of K.A.R. 22-4-2 through 22-4-4. K.A.R. 22-4-2, a regulation on explosive storage permits, is being consolidated into K.A.R. 22-4-5, K.A.R. 22-4-3 is a definitions regulation that is no longer needed, and K.A.R. 22-4-4 contains outdated provisions on the purchase of explosive materials in contiguous states.

I believe that in the current times we live in, these permanent regulations are critical to the safety of those not only in the explosives industry but to the citizens of Kansas at